MONTANA LEGISLATIVE HISTORY

Chapter 280 1979

Bill H 301 S _____ Original bill & history ____C

H. Committee on Appropriations			S. Committee on Finance & Claims		
Hearing Date(s)	Feb 05	✓ C	Hearing Date(s)	Feb 20	✓ C
	_____	____C		Mar 03	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Feb 05	✓ C		Mar 03	✓ C

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Chap. Num.	Senate Bill	House Bill	Title
273		220	An act allowing trustees of any school district or community college to hire legal counsel at their discretion to perform legal services in connection with school or community college board business; amending section 20-1-204, MCA. ....Page 674
274		224	An act to amend section 45-5-304, MCA, to provide that a person does not commit the offense of custodial interference if he voluntarily returns an individual taken, enticed, or withheld from lawful custody to lawful custody prior to arraignment or, in certain cases, prior to arrest. ....Page 674
275		229	An act to specifically include district court judges in the county budget law; amending section 7-6-2324, MCA. ....Page 675
276		238	An act to empower the Department of Social and Rehabilitation Services to impose sanctions on and recover payments from providers who engage in fraudulent, abusive, or improper activities; amending section 53-6-111, MCA. ....Page 675
277		242	An act creating informal contested case proceedings; providing for joint waiving of formal proceedings; providing for joint waiving of administrative proceedings; restricting modification by the agency of the proposal for decision; and amending sections 2-4-601, 2-4-603, and 2-4-621, MCA. ....Page 676
278		251	An act to require suppliers of fresh meat to label foreign meat and to raise the penalty for failure to properly label foreign meat or provide required information; and requiring the Department of Health and Environmental Sciences to report on enforcement efforts to the Legislature; amending sections 50-35-103 and 50-35-104, MCA. ....Page 679
279		264	An act to establish certain requirements for school district facsimile signature machines and their handling; amending section 20-9-221, MCA. ....Page 680
280		301	An act to revise and clarify the manner of funding for the Office of the Consumer Counsel; amending sections 69-1-223 and 69-1-224, MCA. ....Page 681
281		318	An act to amend section 15-1-402, MCA; providing that both the officers collecting licenses and taxes or the counties or the municipalities in whose behalf they were collected and the Department of Revenue must be served with summons and complaint in an action to recover tax paid under protest. ....Page 682
282		325	An act to amend section 45-6-307, MCA, to prohibit the manufacture, assembly, possession, sale, gift, or other transfer of any apparatus, instrument, equipment, or device designed or intended to avoid lawful telecommunications charges. ....Page 684
283		330	An act to increase the permissive county bridge levy; and amending section 7-14-2502, MCA. ....Page 685
284		367	An act to exempt wool and sheep pools from corporation license tax; amending section 15-31-102, MCA; and providing an effective date. ....Page 685
285		368	An act to revise the Reporters' Confidence Act; amending sections 26-1-901, 26-1-902, and 26-1-903, MCA. ....Page 687
286		378	An act to give the Commissioner of Labor and Industry authority to enforce maternity leave provisions through a district court proceeding. ....Page 687
287		383	An act to require approval of the trustees of a receiving school district before a transfer of territory from another school district can be made; amending section 20-6-213, MCA. ....Page 688
288		408	An act allowing school districts to conduct less than the minimum number of school days provided by law; providing definitions and conditions; providing for proportional reductions in school equalization aid; amending sections 20-1-301, 20-6-209, and 20-9-311, MCA; providing an effective date. ....Page 690
289		412	An act to amend section 32-1-213, MCA, relating to the cost of examination of banks, investment companies, and trust companies. ....Page 693
290		413	An act to put compensation for loss of salary for injured officers under workers' compensation; mandating a municipality to pay the difference between the officer's full salary and the amount paid by workers' compensation and clarifying the meaning of monthly compensation for purposes of the statewide police retirement system; amending sections 7-32-4132, 7-32-4135, and 7-32-4136, MCA; repealing sections 7-32-4133 and 7-32-4134, MCA. ....Page 693
291		422	An act to define criminal possession of precursors to certain dangerous drugs, including amphetamine, methamphetamine, and phencyclidine; providing criminal sanctions; providing certain exemptions; and authorizing rulemaking authority for the Board of Pharmacists to grant exemptions. ....Page 695

LC 0858/01

INTRODUCED BY House BILL NO. 301

BY REQUEST OF THE LEGISLATIVE CONSUMER COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY THE MANNER OF FUNDING FOR THE OFFICE OF THE CONSUMER COUNSEL; AMENDING SECTIONS 69-1-223 AND 69-1-224, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-1-223, MCA, is amended to read:

"69-1-223. Funding of office of consumer counsel. (1) There is an account in the earmarked revenue fund to which all fees collected hereunder shall be deposited and from which all appropriations to the office of the consumer counsel shall be paid. An appropriation to the office of the consumer counsel may consist of a base appropriation for regular operating expenses and a contingency appropriation for expenses due to an unanticipated caseload.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall:

(a) within 90 days after the close of each calendar quarter, file with the department of public service regulation and the department of revenue a statement, in such form as the commission may determine, showing the gross operating revenue from all activities regulated by the commission within the state for that calendar quarter of operation or portion thereof; and

(b) at that time pay to the department of revenue a fee based on a ~~fraction~~ percentage of the gross operating revenue reported, as determined by the department of revenue under 69-1-224~~(1)~~.

(3) The amount of money which may be raised by the fee on the regulated companies during a fiscal year may not be increased from the amount appropriated, including both base and contingency appropriations, by the legislature for that fiscal year. Any additional money required for operation of the office of the consumer counsel must be obtained from other sources in a manner authorized by the legislature."

Section 2. Section 69-1-224, MCA, is amended to read:

"69-1-224. Determination of fee. (1) Within 30 days following enactment of the legislative appropriation for the office of the consumer counsel, the department of revenue shall:

(a) determine the total gross operating revenue generated by all regulated activities within this state for all regulated companies for the previous fiscal year;

(b) compute the percentage, subject to revision as provided in subsection (3), of the amount determined in subsection (1)(a) which will produce an amount equal to the base appropriation to the office of the consumer counsel for

HB 301

INTRODUCED BILL

~~each~~ the first year of the appropriation, except that no regulated company owned and operated by any municipal corporation within this state shall be required to pay a sum in excess of .06 of 1% of its gross operating revenue; and

(c) give notice by mail to each regulated company of the percentage determined in subsections (1)(a) and (b) to be applied to the gross operating revenue reported under 69-1-223(2) to determine the amount of the fee to be paid in ~~each~~ the first year of the appropriation.

(2) On or before May 30 of the first year of the biennium, the department of revenue shall repeat the steps required by subsection (1) and compute the percentage multiplier for the second year, giving notice to the regulated companies.

(3) (a) The department of revenue may adjust the percentage multiplier quarterly if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of:

(i) fluctuations in the actual gross operating revenue subject to the fee; or

(ii) submission and approval of a budget amendment authorizing the spending of money from a contingency appropriation included in the appropriation measure for the office of the consumer counsel and authorized to be raised by means of the fee.

(b) Adjustments of the percentage multiplier are subject to the exception provided in subsection (1)(b) for municipally owned and operated regulated companies.

(c) Regulated companies must be given at least 30 days notice of any change in the percentage multiplier.

~~(2)~~(4) In the event the fee charged in ~~any~~ one year ~~of the biennium~~ is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required to be raised by the fee for the ~~first~~ next year of ~~the next biennial appropriation~~ before the determination for ~~that year~~ required by subsection (1)~~(c)~~ is made. Money in the account remaining unspent at the close of a fiscal year carries forward to the following fiscal year, and money remaining unspent at the close of the biennium carries forward to the following biennium."

-End-

MINUTES OF THE MEETING
OF THE LEGISLATIVE APPROPRIATIONS COMMITTEE

February 5, 1979
Room 104
State Capitol Building
Subject: HOUSE BILL 79
HOUSE BILL 301
HOUSE BILL 354
HOUSE BILL 415
HOUSE BILL 425

The meeting was called to order at 7:30 P.M. by Chairman Francis Bardanouve. All members of the committee were present with the exception of Representative Lund. Also present at the meeting were John LaFaver, Fiscal Analyst; John Fitzpatrick and Doug Booker of the Office of Budget and Program Planning; William McEnaney, State Board of Examiners; John Vaughn, Department of Revenue; Dave Lewis, Department of Administration; Gertrude Malone, Department of Professional and Occupational Licensing; Leo Berry, Department of State Lands; Fletcher Newby, Department of Fish and Game; Ed Carney, also of the Department of Professional and Occupational Licensing, and Geoffrey L. Brazier, the Consumer Counsel.

The first order of business was House Bill 415. John Fitzpatrick, OBPP, explained the purpose of the bill is to incorporate about 20 department budgets that had been received since December of last year. He stated that the Fiscal Analyst has received copies of these budgets. He went on to explain each of the department requests separately.

MONTANA ARTS COUNCIL is requesting an additional $154,836 to primarily correct an audit exception.

FISH AND GAME DEPARTMENT has two requests. The first is for $6,630 for the Fish Program, and the second is for $7,901 for the Wildlife Program. They have a contract with the Bureau of Land Management.

The OFFICE OF THE GOVERNOR AND LT. GOVERNOR are requesting $84,973 to fund the completion of a regional EIS for the Northern Powder River Basin.

The DEPARTMENT OF HIGHWAYS has requested $606,125 primarily for the replacement of snow removal equipment which is 20 to 25 years old.

The Alcohol and Drug Abuse Program under the DEPARTMENT OF INSTITUTIONS is asking for $40,500 to continue the DWI court schools.

Also under the Alcochol and Drug Abuse Program, they are requesting an additional $65,000. This is simply an additional amount

funds are included in the supplemental appropriation bill that is not scheduled to be heard this evening. This spending authority was allowed by the 1977 session. He went on to say that the staff found no problems with any other supplemental amendments.

A question and answer period followed this presentation of House Bill 415. At the conclusion of the question and answer period, the hearing on House Bill 415 was concluded and the witnesses were excused.

Representative Quilici, the sponsor of House Bill 301, then explained that this legislation is an act to revise and clarify the manner of funding for the office of consumer counsel. He stated that they have an open-ended budget. The basis of the bill is included in lines 15 through 18 of the bill, which explains that the appropriation is necessary for regular operating expenses and a contingency appropriation for expenses due to unanticipated caseload. He further explained that they have no idea of how many rate increases will come before the counsel. He also stated that any additional money required for operation must be obtained from the Legislature.

Tom Crosser, of the Office of Budget and Program Planning, remarked that all of the money involved in this bill is earmarked revenue funds.

Representative Waldron inquired that if the money carries forward, do they also carry forward the spending authority?

Representative Quilici responded no. That will be a determining factor for the next fiscal year.

Representative Ellis asked what they have been doing with the excess heretofore.

Representative Quilici responded that there hasn't been an excess so far.

After a short question and answer period, the hearing on House Bill 301 was closed.

Mr. Quilici then proceeded to present House Bill 354 which appropriates money for the Office of Consumer Counsel for fiscal year ending June 30, 1979. Simply stated, they are asking for $150,000 supplemental to keep the office of the consumer counsel operating until the next fiscal year.

Representative Lund came in at this point.

introduced Diana Dowling, the Executive Director of the Council. She stated that this appropriation is merely just a guess as to why they are so short in their budget. They are simply estimating how much they are going to need. Most of the additional is needed because of the re-codification. She further stated that this is an estimate of how much they are going to need between now and June 30 of this year. She then went through her budget request step by step and explained the shortages.

After a question and answer period regarding House Bill 79, the hearing was closed on this bill, and the witnesses were excused.

Representative Bengston left the meeting at this point.

The committee then went into executive session.

Representative Marks made a motion that House Bill 79 Do Pass. The motion passed unanimously. House Bill 79 passed this committee.

Representative Menahan moved that House Bill 301 Do Pass. There being no objections, the vote was unanimous. House Bill 301 received a Do Pass from the committee.

Representative Menahan made a motion that House Bill 354 receive a Do Pass. The vote was unanimous on this motion. House Bill 354 passes the Appropriations Committee.

Representative Moore moved that House Bill 425 receive a Do Not Pass. Representative Yardley supported the bill and spoke on behalf of the bill. Representative South made a substitute motion to Do Pass. At this point Representative Moore withdrew his Do Not Pass motion. The vote was unanimous and House Bill 425 received a Do Pass from this committee.

Representative South moved that House Bill 415 Do Pass. Representative Marks moved to amend this bill by striking lines 19 through 21 on page 2 in their entirety. Motion carried.

Representative Moore moved to strike lines 11 through 13 on page 2 in their entirety. Motion carried.

After a short discussion on the amendments, Representative South moved that House Bill 415 pass as amended. With Representatives Kvaalen and Manning voting No, House Bill 415 unanimously passed the committee.

There being no further business the meeting was adjourned at 10:35 P.M.

Chairman

Secretary

Senator Aklestad: When did it become apparent you would overspend your budget? Brazier: I could see it coming a year ago, but there was nothing I could do about it.

Senator Aklestad: Can you defer the case load on something to stall for money? Brazier: The utility companies decide when it is to be. We must act on it within 9 months or the rate increase goes into effect automatically.

Senator Fasbender: What contract services are you anticipating? Some persons are listed under retainer, and some under contract services. Brazier: Two are on a retainer. Bill Johnson, our regular utility advisor, we have always had on a retainer, and his fee has only gone up $1,000. If we had him on a salary we would be paying benefits, etc. The other is John Doubek. He has been our attorney, decided he would like to ease into private practice, but to do it gradually. We kept him on a contract basis since we felt it better to keep his services as long as possible because of his experience in the field.

When questioned about the contracts, and the increase, Mr. Brazier said by law they must have a contract, but there is no way of knowing how much it will actually involve in work, an estimate is then given, and the difference is made up when the facts are known.

Senator Smith asked about the meters, whether the study is now complete, and what is the outcome. Ans. It is not complete, they had expected to be finished soon, but have no viable results as yet.

Senator Aklestad: When was the study started, and how much has been expended so far? Brazier: $45,000 for meters over 2 years, other services in regard to this study would be ordinary ones to handle the work.

Senator Himsl asked if, when you retain someone--isn't this just an availability fee? Isn't this just a retainer and then you pay him for his services? Brazier: No. We give him a retainer, then pay him for his expenses. His retainer includes the work. The retainer includes his services.

The hearing closed on HB 354.

CONSIDERATION OF HOUSE BILL 301: Representative Quilici, district 84, Butte, said this bill clarifies the manner in which the consumer counsel is funded. He said before, it was an open ended budget. The counsel could, through budget amendment, go through the office of Budget and Program Planning and get the necessary funds. He said under the law, Article 13, section 32 of the Constitution under the Consumer Counsel Act, they thought they were authorized to do that, but felt there should be a better method of funding. He felt the Legislature should appropriate the money and have a handle on how it is spent. They have no

idea when the regulatory companies are coming in for a rate increase, and have a contingency in the event it exceeds their general appropriation. He said if they ask for a $300,000 appropriation and only spend $250,000 - they $50,000 would carry over to the next year on the biennium and be taken off the fee for the next biennium.

Representative Quilici said Larry Weinberg and Tom Crosser were present and would be available to answer questions if desired.

Mr. Brazier said the Consumer Counsel funding had received quite a lot of controversy, but felt this b ill would give the legislature control--at least of the upper limit of funding.

Since there were no opponents, Senator Himsl said rather than have more proponents, he felt it would serve the interests of the committee better to have more time available for direct questions.

Senator Regan: Page 2, lines 11-13, mention other funds--What other funds? Representative Quilici answered that there is a proposal that there would be federal funds available, and he merely wanted this open so that if they did become available it would be possible for the counsel to make use of them.

Senator Regan: Questioned page 4, line 5, on carrying money forward. She said this was not done in other areas, and perhaps it was setting a dangerous precedent -- Is it wise? Representative Quilici said he felt it is--this is not general fund money, it is earmarked funds. Senator Himsl commented that generally the expenditures rise to meet the receipts and therefore would probably be nothing to worry about.

In answer to a question in regard to duplication of services with the Public Service Commission, Mr. Brazier said there is no duplication of services. The Counsel is to supply the work and the money to come up with an alternative. The PSC then makes a decision.

Senator Aklestad: How many times has your decision been abided by? Brazier: The batting average in the larger cases is pretty good--in the smaller cases--not so good. He said the difference between the asking and the getting was not about $150 million.

Senator Thiessen asked about the process and expenditure of funds under the FERC (Federal Energy Regulation Commission)--whether it was necessary to exhaust the funds appropriated before obtaining any from the Federal Government. Mr. Brazier answered that no clear decision had been handed down--according to state law there is no reason why they would have to, but FERC has not handed down the new regulations. The amounts involved under the energy is $40 million authorized to the PFC's and $10 million to the consumer counsels to work & look into the rate structures.

Senator Fasbender said he felt there was some contradictory language in the bill in regard to fees and supplements. H. B. 294 says

you can have a budget amendment. 301 says no. Brazier: That is taken care of in the other bill.

Senator Himsl: This means fees appropriated by the Department of Revenue could not be increased. Not only the appropriation but the fees. Brazier: The next page takes care of this.

Senator Aklestad: Many of the services you get are from the contract services. Isn't this like putting the fox in to tend the chickens in the hen house? The consumer is picking up the tab for the utilities, the consumer counsel and the PSC.

The hearing closed.

CONSIDERATION OF HOUSE BILL 79: In the absense of Representative Marks, Diana Dowling, Legislative Council explained the supplemental request. She said she had taken over in September, and at that time had a new bookkeeper, many of the line item expenditures were in Rosie Weber's head, and she had no way of explaining them. She said in looking at Rosie's spread sheets, they had been able to come up with a reasonable guess as to where the deficiencies were. She gave out explanation sheets, exhibits # 2, 3 and 4, attached. She explained the increase in cost of the recodification, the separation pay for Rosie and then for Mr. Walker, the hiring of a bookkeeper to take over some of the things that Monida Vaughn had done before, which included ordering the pre-session supplies.

Questions from the committee included:

Senator Aklestad: How many total FTE? Ans. 104. This will go down to 53 after the session. They now have the mailing room, print room, etc. She said she would endorse the move to put all the expenses concerning the legislature together rather than to split them between the supplemental and the feed bill.

Senator Fasbender asked a question in regard to the $19,000. Judy Rippingale answered that with the Legislative Council the cost of the pay plan was put into the budget like it was with the universities. Fasbender: Then it could have been an underestimation on the number of people? Judy and Diana seemed to think this was probably it. Diana Dowling said the Legislative Council is not under the pay plan, and this might have something to do with it. She said the total cost of the codes would be higher. The earmarked $55,000 had been taken out of money for the payroll. The bid was estimated on the amount of pages, there were a lot more pages, and once the bid was let the money had to be set aside for it, and this money was taken from the payroll; t $81,000 would be put back, the extra above the 81,000 was put in the supplemental.

Senator Thiessen: How much anticipated revenue from the codes is expected? Mrs. Dowling stated there were 200 sets free--150 to the legislators, 70 sets used by the council. There could be up to 2,000 sets sold. They had 2300 subscribers to the old codes, but many still are not aware there are new ones. They

ANTICIPATED EXPENSES OF OFFICE OF CONSUMER COUNSEL FROM JANUARY 26, 1979 to JUNE 30, 1979

Category	Expended as of January 16, 1979	Anticipated	Anticipated Total for FY 1979
Salaries	30,642	19,644	50,286
Other Comp.	385	360	745
Benefits	3,735	2,070	5,805
Contr. Services	105,289	105,450 +40,440	210,739 +40,000
Supplies	244	250	494
Communications	2,771	2,400	5,171
Travel	2,344	2,400	4,744
Rent	944	3,240	4,184
Other	1,115	1,200	2,315
Equipment	1,124	822	1,946
	$148,593	$137,836 +40,440 $177,836	$286,429 +40,000 $326,429

Explanation of "Anticipated" figures above

Salaries: $3274/mo. for 6 months — $50/mo increase than past months for raise for Celia

Other Comp: $120/mo for 3 months — Jan - Mar legislators in Helena for legislature anyway

Benefits: $345/month for 6 months

Contracted Services: See attached sheets

Supplies: $250 for period is similar to first six months experience

Communications: $400 per month is similar to first six months

Travel: $400 per month is similar to first six months experience

Rent: $360 per month for October thru June, or 9 months. New lease entered into as of October 1978.

Other: $200 per month is similar to first six months

Equipment: $137 per month for rental of electric typewriter

Signed Montana Budget Office 2-5-79

Contracted Services - Montana Consumer Counsel

January 26, 1979 to June 30, 1979 - ANTICIPATED

Dick Gabel

Mountain Bell $5000

George Hess

Montana Power Co. $25,000
MPC - possible 6,000

Bob O'Neil

Northwestern Telephone $4500

John Wilson

Montana Power Co. $25,000
MPC - possible 6,000

Tom Auchincloss

Appeal $4000

Bill Johnson

Monthly Retainer $9600

John Doubek

1/2 Annual Contract $13,000

Pat Flaherty

Computer work $300

Northwest Transportation Consultants

ICC 36634(1) $650

Xerox Usage $1200

Part-time Secretarial $ 200

Transcripts:

Montana Power & possible others $5000

TOTAL $105,450

MOUNTAIN BELL CASE FILED 2-5-79 $ 40,000

$145,450

Contracted Services - Montana Consumer Counsel

July 1, 1978 to January 26, 1979

Dick Cabel @ $40/hour

Mountain Bell $2,214

George Hess @ $75/hour

PP&L $8,846

Mountain Bell - RIP $6,699

MDU $15,959

Bob O'Neil @ $33/hour

Northwestern Tel. $7,051

John Wilson @ $60/hour

Montana Power $3,440

MDU $24,007

John Rattenmayer @ $55/hour

PP&L $7,578

Rick Morgan @ $20/hour

Billings Water $390

Livingston Sewer $110

Tom Auchincloss

Appeal of ICC decision 36053(1) $2,074

*Dept. of Ag. owes same amount $2,074 but is still due and unpaid.

Bill Johnson $1500/month

$9,000

John Doubek @ $20/hour

$13,455

Xerox Usage $1,380

Part-time Secretarial $182

Transcripts:

Anaconda Co. v. PSC & MPC	31.00
CC Petition for Rail Service by BN in Bozeman	289.00
MDU #6567	1,729.00
Msla & Superior Water	855.00
	2,904.00

TOTAL $105,289

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MONTANA CONSUMER COUNSEL
34 W. SIXTH AVENUE
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SUMMARY OF THE ANNUAL REPORT FOR 1978 OF THE MONTANA CONSUMER COUNSEL TO THE LEGISLATIVE CONSUMER COMMITTEE

The Consumer Counsel is an agency of the legislative branch of government. It was mandated by the Montana Constitution of 1972 to represent interests of consumers in cases that come before the Montana Public Service Commission or any other successor agency. Its functions have evolved to the point where it represents the interests of substantial elements of both transportation and utility consumers not only before the Montana Public Service Commission and in Montana courts, but before federal agencies, such as the ICC, the FERC, the FCC and the CAB, and federal courts.

The activities of the office are governed by a committee of four legislators, being one member of each party from each house, who are selected by the committee appointing authority of each house at every session of the legislature. The activities of the office are funded by a tax levied against the gross revenues on intrastate business generated by companies regulated by the Public Service Commission.

Presently, the Consumer Counsel staff consists of the Consumer Counsel, who must be a licensed attorney, a staff attorney, a regulatory consultant and an administrative secretary. Staff participation is supplemented, particularly in important major rate increase cases involving requests for large sums of money, by attorneys and expert witnesses proficient in regulatory matters. This is to offset the sometimes awesome battery of attorneys and experts brought to command by regulated companies in their respective rate increase cases.

During the year 1978, the Consumer Counsel staff participated in over 70 contested administrative cases before the Public Service Commission, 10 contested administrative cases before the ICC, and one contested administrative case before the FERC. It was also involved in two rule-making cases before the Public Service Commission. It is presently contesting two federal court cases involving decisions by the ICC, two cases pending in the Montana Supreme Court, and 13 cases pending in district courts of the State of Montana. These court cases involve issues of far-ranging, precedent-setting importance in regulatory fields. The office was involved in cases forestalling transportation and utility rate increases and thereby saving transportation and utility customers approximately $50,000,000 in the year 1978. Cumulative total savings in cases the office participated in are over $150,000,000.

Obviously this is not a typical resource agency of the legislature. It is available, however, to try to provide such information regarding regulatory matters as may be requested.

A more detailed report of the activities of the office for the year 1978 as well as its history and staff structure, is available upon request.

MONTANA CONSUMER COUNSEL

	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	TOTALS
Salaries	-	10416	5182	6959	3224	3224	3249						32,254
0,500	5929	3382	9019	6013	6013	6013	6314	6615	6615	9923	6615	3308	82,373
ner Comp.	-	-	131	96	158	-	164						569
,200	116	-	193	83	25	125	-	-	166	-	337	175	1,353
nefits	-	1412	585	850	337	338	451						3,974
,270	739	461	936	561	561	535	811	827	868	1303	755	434	9,639
ur. Serv.	4667	11895	14757	32042	19814	5966	17990						107,031
,447	3835	18123	2034	22491	25722	16874	7425	10713	30639	13388	24987	16055	193,459
pplies	26	68	15	5	95	34	1						245
0	54	2	105	37	12	17	120	3	67	50	150	2	643
mun.	297	142	599	362	564	265	584						2,812
,900	259	225	874	238	741	312	66	228	619	511	463	735	5,618
vel	122	160	661	514	888	-	714						3,058
,000	446	327	1980	594	268	471	231	375	1018	162	2548	675	9,630
t	-	600	300	-	-	44	1800						2,744
,200	-	600	300	300	600	300	-	600	-	300	300	-	3,600
ser	479	225	103	64	195	50	99						1,214
,400	185	405	163	15	138	8	24	-	494	-	240	1	1,717
ip	-	713	137	137	-	137	306						1,430
000	-	-	15447	9780	-	52	-	389	190	-	379	-	26,427
als	5590	25631	22471	41029	25275	9957	25378						155,331
5,717	11564	19681	31052	40112	34081	24706	14991	19752	40676	25637	36675	21385	334,469

ow immediately under category is amount budgeted for FY 79

d line in each category is actual expenditure to date for FY 79 and total to date.

nd line in each category is actual expenditure for FY 78 and total for FY 78.

Northey: Under the Highway Patrolmen's Retirement Act, the State Treasurer shall transfer 16% of the total salary from the license receipts. That amount is 46% of those receipts.

The hearing was closed.

MOTION by Senator Smith that House Bill 403 BE CONCURRED IN. Voted and passed. Senator Stimatz to carry the bill.

DISPOSITION OF HOUSE BILL 301: Chairman Himsl reviewed the testimony of 301 for the benefit of the committee.

Senator Fasbender said the difficulty with this bill is that the money needed is unknown. The Counsel has no say over when or how much will be needed. The law says they must defend the case and they have no control over when. Additional money would have to be appropriated from the general fund, and there is a provision at the end of the bill that says the money remaining can be used in the next year. That opens it up to a new amendment if they really just want to use what is generated by the fee, this should not be allowed. A simple amendment to strike lines 13 through 15 on page 4 and insert "shall be used to reduce the percentage calculated in 69-1-224 in the subsequent fiscal year." should take care of it.

Senator Himsl: Does this relate to page 2, line 7? Senator Fasbender: If any money is left over, it should be used to reduce it the next year, not carry it over. Senator Himsl: Year or biennium? Senator Fasbender: year.

Senator Etchart: Apparently I was not present on the testimony on this bill. How much money is the Consumer Counsel spending, and who has a handle on it? Senator Himsl: This was explained in the other bill we passed on the consumer counsel. This one comes in to enable them to have a base appropriation and also a contingency appropriation.

Senator Smith: Served 2 years on the consumer council. At times they have no idea what the rates are going to be in a year. They are mandated by law to defend the consumer and there is no way to know what their costs may be 2 years down the road.

Senator Etchart commented that all of these costs are then passed on to the consumer.

MOTION by Senator Fasbender to move the amendment. Voted and passed.

Senator Himsl said this bill basically states: Do you favor the idea of having a base appropriation with a contingency with the exception if there are national emergency funds that they can use them.

Discussion was held on the PSC and the Consumer Counsel both working on the rate increases, and that these expenses as well as those of the utility companies are passed on for the consumer

to pick up the tab; that the consumer counsel was mandated by the constitution, but the PSC was not, but was one of the executive reorganization departments; and that they did not do the ground work but acted as judges, etc. Senator Himsl brought them back to the bill at hand, and Senator Fasbender said this bill was a compromise. The Council did not feel the budget should be open ended, this bill would limit it and they would have an amount of money appropriated by the legislature.

MOTION by Senator Fasbender that HOUSE BILL 301, as amended, BE CONCURRED IN. Voted and passed. Senator Fasbender to carry the bill.

MOTION to adjourn. The meeting adjourned at 12:00 noon.

Senator Himsl

Senator Himsl, Chairman

STANDING COMMITTEE REPORT

March 3 19 79

MR. President

We, your committee on Finance and Claims

having had under consideration , House , Bill No. 301

Respectfully report as follows: That House Bill No. 301
third reading bill, be amended as follows:

1. Page 4, line 13.
Strike: lines 13 through 15 in their entirety
Insert: "shall be used to reduce the percentage calculated in 69-1-224 in the subsequent fiscal year."

And, as so amended, BE CONCURRED IN

DO PASS

Chairman.

STATE PUB. CO.

Senator Hazel

HOUSE BILL NO. 301

INTRODUCED BY QUILICI, LORY, KOLSTAD, TOWE

BY REQUEST OF THE LEGISLATIVE CONSUMER COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY THE MANNER OF FUNDING FOR THE OFFICE OF THE CONSUMER COUNSEL; AMENDING SECTIONS 69-1-223 AND 69-1-224, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-1-223, MCA, is amended to read:

"69-1-223. Funding of office of consumer counsel. (1) There is an account in the earmarked revenue fund to which all fees collected hereunder shall be deposited and from which all appropriations to the office of the consumer counsel shall be paid. An appropriation to the office of the consumer counsel may consist of a base appropriation for regular operating expenses and a contingency appropriation for expenses due to an unanticipated caseload.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall:

(a) within 90 days after the close of each calendar quarter, file with the department of public service regulation and the department of revenue a statement, in such form as the commission may determine, showing the gross operating revenue from all activities regulated by the commission within the state for that calendar quarter of operation or portion thereof; and

(b) at that time pay to the department of revenue a fee based on a ~~fraction~~ percentage of the gross operating revenue reported, as determined by the department of revenue under 69-1-224~~(1)~~.

(3) The amount of money which may be raised by the fee on the regulated companies during a fiscal year may not be increased from the amount appropriated, including both base and contingency appropriations, by the legislature for that fiscal year. Any additional money required for operation of the office of the consumer counsel must be obtained from other sources in a manner authorized by the legislature."

Section 2. Section 69-1-224, MCA, is amended to read:

"69-1-224. Determination of fee. (1) Within 30 days following enactment of the legislative appropriation for the office of the consumer counsel, the department of revenue shall:

(a) determine the total gross operating revenue generated by all regulated activities within this state for all regulated companies for the previous fiscal year;

(b) compute the percentage, subject to revision as provided in subsection (3), of the amount determined in subsection (1)(a) which will produce an amount equal to the base appropriation to the office of the consumer counsel for

REFERENCE BILL

each ~~the first~~ year of the appropriation, except that no regulated company owned and operated by any municipal corporation within this state shall be required to pay a sum in excess of .06 of 1% of its gross operating revenue; and

(c) give notice by mail to each regulated company of the percentage determined in subsections (1)(a) and (b) to be applied to the gross operating revenue reported under 69-1-223(2) to determine the amount of the fee to be paid in each ~~the first~~ year of the appropriation.

~~(2) On or before May 30 of the first year of the biennium, the department of revenue shall repeat the steps required by subsection (1) and compute the percentage multiplier for the second year, giving notice to the regulated companies.~~

~~(3) (a) The department of revenue may adjust the percentage multiplier quarterly if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of:~~

~~(i) fluctuations in the actual gross operating revenue subject to the fee; or~~

~~(ii) submission and approval of a budget amendment authorizing the spending of money from a contingency appropriation included in the appropriation measure for the office of the consumer counsel and authorized to be raised by means of the fee.~~

~~(b) Adjustments of the percentage multiplier are subject to the exception provided in subsection (1)(b) for municipally owned and operated regulated companies.~~

~~(c) Regulated companies must be given at least 30 days notice of any change in the percentage multiplier.~~

~~(2)~~(4) In the event the fee charged in any one year of ~~the biennium~~ is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required ~~to be raised by the fee~~ for the ~~first~~ next year ~~of the next biennial appropriation~~ before the determination ~~for that year~~ required by subsection (1)~~(a)~~ is made. ~~Money in the account remaining unspent at the close of a fiscal year carries forward to the following fiscal year, and money remaining unspent at the close of the biennium carries forward to the following biennium.~~ SHALL BE USED TO REDUCE THE PERCENTAGE CALCULATED IN 69-1-224 IN THE SUBSEQUENT FISCAL YEAR."

-End-